

AMENDED IN ASSEMBLY JUNE 22, 2015

AMENDED IN SENATE APRIL 16, 2015

SENATE BILL

No. 413

Introduced by Senator Wieckowski

February 25, 2015

An act to amend Section 640 of the Penal Code, and to amend Section 99580 of the Public Utilities Code, relating to public transit.

LEGISLATIVE COUNSEL'S DIGEST

SB 413, as amended, Wieckowski. Public transit: prohibited conduct.

Existing law makes it a crime, punishable as an infraction, for a person to commit certain acts on or in a facility or vehicle of a public transportation system, including disturbing another person by loud or unreasonable noise ~~or selling or peddling any goods, merchandise, property, or services of any kind whatsoever~~ on the facilities, vehicles, or property of the public transportation system, in specified circumstances.

This bill would revise the unreasonable noise provision so that it would apply to a person failing to comply with the warning of a transit official related to disturbing another person by loud and unreasonable noise, and also to a person playing sound equipment on or in a public transportation system facility or vehicle. The bill would also make it an infraction for a person on or in a facility or vehicle of a public transportation system to fail to yield seating reserved for an elderly or disabled person *if the public transportation agency enacts an ordinance to that effect, after a public hearing*. ~~The bill would make a 3rd or subsequent violation of the prohibition against selling or peddling goods, merchandise, property, or services, as specified, punishable as a misdemeanor.~~

The bill would also expand the definition of a facility or vehicle of a public transportation system for these purposes to include a facility or vehicle of a rail authority, whether owned or leased, as specified.

By expanding the definitions of existing crimes and creating new crimes, the bill would impose a state-mandated local program.

Existing law also authorizes a public transportation agency to adopt an ordinance to impose and enforce civil administrative penalties for certain passenger misconduct, other than by minors, on or in a transit facility or vehicle in lieu of the criminal penalties otherwise applicable, with specified administrative procedures for the imposition and enforcement of the administrative penalties, including an initial review and opportunity for a subsequent administrative hearing. Existing law requires the ordinance to include the statutory provisions governing the administrative penalties.

This bill would authorize these administrative penalties to also apply to a person failing to comply with the warning of a transit official related to disturbing another person by loud and unreasonable noise, and to a person failing to yield seating reserved for an elderly or disabled person. The bill would authorize the administrative penalties to be applied to minors and would delete the requirement for the ordinance to include the statutory provisions.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 640 of the Penal Code is amended to
2 read:
3 640. (a) (1) Any of the acts described in paragraphs (1) to (6),
4 inclusive, of subdivision (b) is an infraction punishable by a fine
5 not to exceed two hundred fifty dollars (\$250) and by community
6 service for a total time not to exceed 48 hours over a period not to
7 exceed 30 days, during a time other than during the violator's hours
8 of school attendance or employment. Any of the acts described in
9 paragraphs (1) to (3), inclusive, of subdivision (c), upon a first or

1 second violation, is an infraction punishable by a fine not to exceed
2 two hundred fifty dollars (\$250) and by community service for a
3 total time not to exceed 48 hours over a period not to exceed 30
4 days, during a time other than during the violator's hours of school
5 attendance or employment. A third or subsequent violation of any
6 of the acts described in paragraphs (1) to (3), inclusive, of
7 subdivision (c) is a misdemeanor punishable by a fine of not more
8 than four hundred dollars (\$400) or by imprisonment in a county
9 jail for a period of not more than 90 days, or by both that fine and
10 imprisonment. Any of the acts described in subdivision (d) shall
11 be punishable by a fine of not more than four hundred dollars
12 (\$400), by imprisonment in a county jail for a period of not more
13 than 90 days, or by both that fine and imprisonment.

14 (2) This section shall apply only to acts committed on or in a
15 facility or vehicle of a public transportation system.

16 (b) (1) Eating or drinking in or on a system facility or vehicle
17 in areas where those activities are prohibited by that system.

18 (2) Playing sound equipment on or in a system facility or
19 vehicle, or failing to comply with the warning of a transit official
20 related to disturbing another person by loud or unreasonable noise.

21 (3) Smoking in or on a system facility or vehicle in areas where
22 those activities are prohibited by that system.

23 (4) Expectorating upon a system facility or vehicle.

24 (5) Skateboarding, roller skating, bicycle riding, roller blading,
25 or operating a motorized scooter or similar device, as defined in
26 Section 407.5 of the Vehicle Code in a system facility, vehicle, or
27 parking structure. This paragraph does not apply to an activity that
28 is necessary for utilization of the transit facility by a bicyclist,
29 including, but not limited to, an activity that is necessary for
30 parking a bicycle or transporting a bicycle aboard a transit vehicle,
31 if that activity is conducted with the permission of the transit
32 agency in a manner that does not interfere with the safety of the
33 bicyclist or other patrons of the transit facility.

34 ~~(6) Failing to yield seating reserved for an elderly or disabled~~
35 ~~person. Selling or peddling any goods, merchandise, property, or~~
36 ~~services of any kind whatsoever on the facilities, vehicles, or~~
37 ~~property of the public transportation system, if the public~~
38 ~~transportation system has prohibited those acts and neither the~~
39 ~~public transportation system nor its duly authorized representatives~~
40 ~~have granted written consent to engage in those acts.~~

1 (c) (1) Evasion of the payment of a fare of the system. For
2 purposes of this section, fare evasion includes entering an enclosed
3 area of a public transit facility beyond posted signs prohibiting
4 entrance without obtaining valid fare, in addition to entering a
5 transit vehicle without valid fare.

6 (2) Misuse of a transfer, pass, ticket, or token with the intent to
7 evade the payment of a fare.

8 (3) (A) Unauthorized use of a discount ticket or failure to
9 present, upon request from a transit system representative,
10 acceptable proof of eligibility to use a discount ticket, in
11 accordance with Section 99155 of the Public Utilities Code and
12 posted system identification policies when entering or exiting a
13 transit station or vehicle. Acceptable proof of eligibility must be
14 clearly defined in the posting.

15 (B) In the event that an eligible discount ticket user is not in
16 possession of acceptable proof at the time of request, any citation
17 issued shall be held for a period of 72 hours to allow the user to
18 produce acceptable proof. If the proof is provided, the citation
19 shall be voided. If the proof is not produced within that time period,
20 the citation shall be processed.

21 ~~(4) Selling or peddling any goods, merchandise, property, or~~
22 ~~services of any kind whatsoever on the facilities, vehicles, or~~
23 ~~property of the public transportation system, if the public~~
24 ~~transportation system has prohibited those acts and neither the~~
25 ~~public transportation system nor its duly authorized representatives~~
26 ~~have granted written consent to engage in those acts.~~

27 (d) (1) Willfully disturbing others on or in a system facility or
28 vehicle by engaging in boisterous or unruly behavior.

29 (2) Carrying an explosive, acid, or flammable liquid in a public
30 transit facility or vehicle.

31 (3) Urinating or defecating in a system facility or vehicle, except
32 in a lavatory. However, this paragraph shall not apply to a person
33 who cannot comply with this paragraph as a result of a disability,
34 age, or a medical condition.

35 (4) Willfully blocking the free movement of another person in
36 a system facility or vehicle. This paragraph shall not be interpreted
37 to affect any lawful activities permitted or First Amendment rights
38 protected under the laws of this state or applicable federal law,
39 including, but not limited to, laws related to collective bargaining,
40 labor relations, or labor disputes.

1 (5) Willfully tampering with, removing, displacing, injuring,
2 or destroying any part of any facility or vehicle of a public
3 transportation system.

4 (e) Notwithstanding subdivision (a), a public transportation
5 agency, as defined in paragraph (4) of subdivision (c) of Section
6 99580 of the Public Utilities Code, may ~~enact~~ *do either of the*
7 *following*:

8 (1) *Enact and enforce an ordinance providing that a person who*
9 *is the subject of a citation for any of the acts described in*
10 *subdivision (b) of Section 99580 of the Public Utilities Code on*
11 *or in a facility or vehicle described in subdivision (a) for which*
12 *the public transportation agency has jurisdiction shall, under the*
13 *circumstances set forth by the ordinance, be afforded an*
14 *opportunity to complete an administrative process that imposes*
15 *only an administrative penalty enforced in a civil proceeding. The*
16 *ordinance for imposing and enforcing the administrative penalty*
17 *shall be governed by Chapter 8 (commencing with Section 99580)*
18 *of Part 11 of Division 10 of the Public Utilities Code.*

19 (2) *Enforce as an infraction pursuant to subdivision (b) the act*
20 *of failing to yield seating reserved for an elderly or disabled person*
21 *in a facility or vehicle for which the public transportation agency*
22 *has jurisdiction, provided that the governing board of the public*
23 *transportation agency enacts an ordinance to that effect after a*
24 *public hearing on the issue.*

25 (f) For purposes of this section, a “facility or vehicle of a public
26 transportation system” means any of the following:

27 (1) A facility or vehicle of a public transportation system as
28 defined by Section 99211 of the Public Utilities Code.

29 (2) A facility of, or vehicle operated by any entity subsidized
30 by, the Department of Transportation.

31 (3) A facility or vehicle of a rail authority, whether owned or
32 leased, including, but not limited to, any part of a railroad, or track
33 of a railroad, or any branch or branchway, switch, turnout, bridge,
34 viaduct, culvert, embankment, station house, or other structure or
35 fixture, or any part thereof, attached or connected to a railroad.

36 (4) A leased or rented facility or vehicle for which any of the
37 entities described in paragraph (1), (2), or (3) incurs costs of
38 cleanup, repair, or replacement as a result of any of those acts.

39 SEC. 2. Section 99580 of the Public Utilities Code is amended
40 to read:

1 99580. (a) Pursuant to subdivision (e) of Section 640 of the
2 Penal Code, a public transportation agency may enact and enforce
3 an ordinance to impose and enforce an administrative penalty for
4 any of the acts described in subdivision (b).

5 (b) (1) Evasion of the payment of a fare of the system.

6 (2) Misuse of a transfer, pass, ticket, or token with the intent to
7 evade the payment of a fare.

8 (3) Playing sound equipment on or in a system facility or
9 vehicle, or failing to comply with the warning of a transit official
10 related to disturbing another person by loud or unreasonable noise.

11 (4) Smoking, eating, or drinking in or on a system facility or
12 vehicle in those areas where those activities are prohibited by that
13 system.

14 (5) Expectoating upon a system facility or vehicle.

15 (6) Willfully disturbing others on or in a system facility or
16 vehicle by engaging in boisterous or unruly behavior.

17 (7) Carrying an explosive or acid, flammable liquid, or toxic or
18 hazardous material in a system facility or vehicle.

19 (8) Urinating or defecating in a system facility or vehicle, except
20 in a lavatory. However, this paragraph shall not apply to a person
21 who cannot comply with this paragraph as a result of a disability,
22 age, or a medical condition.

23 (9) (A) Willfully blocking the free movement of another person
24 in a system facility or vehicle.

25 (B) This paragraph shall not be interpreted to affect any lawful
26 activities permitted or First Amendment rights protected under the
27 laws of this state or applicable federal law, including, but not
28 limited to, laws related to collective bargaining, labor relations,
29 or labor disputes.

30 (10) Skateboarding, roller skating, bicycle riding, or roller
31 blading in a system facility, including a parking structure, or in a
32 system vehicle. This paragraph does not apply to an activity that
33 is necessary for utilization of a system facility by a bicyclist,
34 including, but not limited to, an activity that is necessary for
35 parking a bicycle or transporting a bicycle aboard a system vehicle,
36 if that activity is conducted with the permission of the agency of
37 the system in a manner that does not interfere with the safety of
38 the bicyclist or other patrons of the system facility.

39 (11) (A) Unauthorized use of a discount ticket or failure to
40 present, upon request from a system representative, acceptable

1 proof of eligibility to use a discount ticket, in accordance with
2 Section 99155, and posted system identification policies when
3 entering or exiting a system station or vehicle. Acceptable proof
4 of eligibility must be clearly defined in the posting.

5 (B) ~~In the event that~~ If an eligible discount ticket user is not in
6 possession of acceptable proof at the time of request, an issued
7 notice of fare evasion or passenger conduct violation shall be held
8 for a period of 72 hours to allow the user to produce acceptable
9 proof. If the proof is provided, that notice shall be voided. If the
10 proof is not produced within that time period, that notice shall be
11 processed.

12 (12) Selling or peddling any goods, merchandise, property, or
13 services of any kind whatsoever on the facilities, vehicles, or
14 property of the public transportation system without the express
15 written consent of the public transportation system or its duly
16 authorized representatives.

17 (13) Failing to yield seating reserved for an elderly or disabled
18 person.

19 (c) (1) The public transportation agency may contract with a
20 private vendor or governmental agency for the processing of notices
21 of fare evasion or passenger conduct violation, and notices of
22 delinquent fare evasion or passenger conduct violation pursuant
23 to Section 99581.

24 (2) For the purpose of this chapter, “processing agency” means
25 either of the following:

26 (A) The agency issuing the notice of fare evasion or passenger
27 conduct violation and the notice of delinquent fare evasion or
28 passenger conduct violation.

29 (B) The party responsible for processing the notice of fare
30 evasion or passenger conduct violation and the notice of delinquent
31 violation, if a contract is entered into pursuant to paragraph (1).

32 (3) For the purpose of this chapter, “fare evasion or passenger
33 conduct violation penalty” includes, but is not limited to, a late
34 payment penalty, administrative fee, fine, assessment, and costs
35 of collection as provided for in the ordinance.

36 (4) For the purpose of this chapter, “public transportation
37 agency” shall mean a public agency that provides public
38 transportation as defined in paragraph (1) of subdivision (f) of
39 Section 1 of Article XIX A of the California Constitution.

(5) All fare evasion and passenger conduct violation penalties collected pursuant to this chapter shall be deposited in the general fund of the county in which the citation is administered.

(d) (1) If a fare evasion or passenger conduct violation is observed by a person authorized to enforce the ordinance, a notice of fare evasion or passenger conduct violation shall be issued. The notice shall set forth the violation, including reference to the ordinance setting forth the administrative penalty, the date of the violation, the approximate time, and the location where the violation occurred. The notice shall include a printed statement indicating the date payment is required to be made, and the procedure for contesting the notice. The notice shall be served by personal service upon the violator. The notice, or copy of the notice, shall be considered a record kept in the ordinary course of business of the issuing agency and the processing agency, and shall be prima facie evidence of the facts contained in the notice establishing a rebuttable presumption affecting the burden of producing evidence.

(2) When a notice of fare evasion or passenger conduct violation has been served, the person issuing the notice shall file the notice with the processing agency.

(3) If, after a notice of fare evasion or passenger conduct violation is issued pursuant to this section, the issuing officer determines that there is incorrect data on the notice, including, but not limited to, the date or time, the issuing officer may indicate in writing on a form attached to the original notice the necessary correction to allow for the timely entry of the corrected notice on the processing agency's data system. A copy of the correction shall be mailed to the address provided by the person cited at the time the original notice of fare evasion or passenger conduct violation was served.

(4) If a person contests a notice of fare evasion or passenger conduct violation, the issuing agency shall proceed in accordance with Section 99581.

(e) In setting the amounts of administrative penalties for the violations listed in subdivision (b), the public transportation agency shall not establish penalty amounts that exceed the maximum fine amount set forth in Section 640 of the Penal Code.

1 (f) A person who receives a notice of fare evasion or passenger
2 conduct violation pursuant to this section shall not be subject to
3 citation for a violation of Section 640 of the Penal Code.

4 (g) If an entity enacts an ordinance pursuant to this section it
5 shall, both two years and five years after enactment of the
6 ordinance, report all of the following information to the Senate
7 Committee on Transportation and Housing and the Assembly
8 Committee on Transportation:

9 (1) A description of the ordinance, including the circumstances
10 under which an alleged violator is afforded the opportunity to
11 complete the administrative process.

12 (2) The amount of the administrative penalties.

13 (3) The number and types of citations administered pursuant to
14 the ordinance.

15 (4) To the extent available, a comparison of the number and
16 types of citations administered pursuant to the ordinance with the
17 number and types of citations issued for similar offenses and
18 administered through the courts both in the two years prior to the
19 ordinance and, if any, since enactment of the ordinance.

20 (5) A discussion of the effect of the ordinance on passenger
21 behavior.

22 (6) A discussion of the effect of the ordinance on revenues to
23 the entity described in subdivision (a) and, in consultation with
24 the superior courts, the cost savings to the county courts. The
25 superior courts are encouraged to collaborate on and provide data
26 for this report.

27 SEC. 3. No reimbursement is required by this act pursuant to
28 Section 6 of Article XIII B of the California Constitution because
29 the only costs that may be incurred by a local agency or school
30 district will be incurred because this act creates a new crime or
31 infraction, eliminates a crime or infraction, or changes the penalty
32 for a crime or infraction, within the meaning of Section 17556 of
33 the Government Code, or changes the definition of a crime within
34 the meaning of Section 6 of Article XIII B of the California
35 Constitution.